

AMENDED IN ASSEMBLY MARCH 24, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 575

Introduced by Assembly Member Dutra

February 18, 2003

An act to amend Sections 31610, 32001, 32106, and 33002 of, and to add Section 34002.5 to, to the Vehicle Code, relating to motor carriers.

LEGISLATIVE COUNSEL'S DIGEST

AB 575, as amended, Dutra. Motor carriers: transporting dangerous substances.

(1) Existing law separately regulates the transportation of explosives, hazardous materials, inhalation hazard, hazardous radioactive materials, and flammable or combustible liquids, under specified circumstances.

This bill would require a motor carrier, as defined, operating a ~~vehicle~~ *certain vehicles* or combination of vehicles ~~on the highway in intrastate commerce~~ and transporting the above described materials or substances, *except hazardous materials*, to ensure that ~~each the vehicle, or at least one vehicle in a combination of vehicles~~, is equipped with a *remote or external* device that enables a peace officer, the carrier, or driver to immediately disable the vehicle by one or more specific methods, and to ensure, ~~as applicable, that each a vehicle or combination of vehicles transporting these materials or substances maintains a two-way communication devices, as defined, that allows the driver immediate communication with the motor carrier or motor carrier representative~~ *equipped with the specified device is*

appropriately marked with a letter or symbol designated by the Department of the California Highway Patrol to identify the activation method of the device.

The bill would also require a motor carrier transporting certain amounts of hazardous materials in certain vehicles to comply with a requirement that the vehicle be equipped with a global positioning system receiver and any hardware necessary to enable the motor carrier to determine the location of that vehicle at any time.

Because a violation of the Vehicle Code governing these provisions is currently a crime, this bill would impose a state-mandated local program by expanding the scope of that crime.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 31610 of the Vehicle Code is amended
2 to read:

3 31610. Every vehicle or combination of vehicles used in the
4 transportation of explosives and subject to this division, in
5 addition to any other equipment required by law, shall be equipped
6 and maintained as required by this section.

7 (a) Brakes and the brake system shall be maintained in good
8 and safe operating condition.

9 (b) The ignition and lighting systems shall be maintained in
10 good operating condition.

11 (c) All tires shall be in good condition, properly matched and
12 inflated. Except as may be necessary to cause immediate
13 replacement, no vehicle shall be driven unless all tires in actual use
14 on the vehicle are properly inflated.

15 (d) Fire extinguishers and other safety equipment prescribed by
16 regulations adopted by the department pursuant to subdivision (f)
17 of Section 34500 and Section 34501 shall be carried in each
18 vehicle or combination of vehicles.



(e) No flare, fusee, oil lantern, or any signal device producing a flame shall be carried upon any vehicle or combination of vehicles.

~~(f) The motor carrier operating a vehicle or combination of vehicles described in this section shall comply with the following:~~

~~(1) Ensure that each vehicle is equipped with a device that enables a peace officer, the motor carrier, or driver to immediately disable the vehicle by one or more of the following methods:~~

~~(A) Cutting off fuel supply to the power unit.~~

~~(B) Depletion of the air from emergency brake lines of the truck, tractor, or trailer, thereby activating parking brakes.~~

~~(C) Cutting off electrical power to the engine.~~

~~(2) Ensure that each vehicle or combination of vehicles transporting explosives maintains a two-way communication device, as defined in subparagraph (B) of paragraph (4) of subdivision (e) of Section 32001, that allows the driver immediate communication with the motor carrier or motor carrier representative.~~

(f) A motor carrier operating a vehicle or combination of vehicles described in subdivision (a), (e), or (f) of Section 34500 in intrastate commerce and transporting any explosive for which the display of placards or markings is required under Section 27903 shall comply with all of the following:

(1) Ensure that the vehicle or at least one vehicle in a combination of vehicles is equipped with a remote or external device that enables a peace officer, the motor carrier, or the driver to immediately disable the vehicle by one or more of the following methods:

(A) Disabling the fuel supply to the power unit.

(B) Activating the emergency stopping system of the motor truck, truck tractor, or trailer, and thereby activating the parking brakes.

(C) Disabling the electrical power to the engine, while still allowing steering and braking control of the vehicle.

(2) Ensure that a vehicle equipped with the device required under paragraph (1) is appropriately marked with a letter or symbol designated by the department to identify the activation method of the device.

SEC. 2. Section 32001 of the Vehicle Code is amended to read:

1 32001. (a) (1) Any authorized employee of the department
2 may inspect any sealed or unsealed vehicle, container, or shipment
3 subject to this division in maintenance facilities, terminals, or
4 other public or private property to ascertain the quantity and kind
5 of hazardous material and to ensure compliance with this code and
6 regulations adopted pursuant to this code.

7 (2) If a seal is opened for inspection, the department shall reseal
8 any vehicle, container, or shipment prior to further transportation.

9 (b) Unless specifically stated, nothing contained in this
10 division shall be deemed to exempt any vehicle transporting a
11 hazardous material subject to this division or the operator or any
12 other person from other provisions of this code.

13 (c) A motor carrier may not direct the transportation of any
14 shipment of a hazardous material in any vehicle unless all of the
15 following are complied with:

16 (1) The vehicle is equipped as required by this code and
17 applicable regulations adopted pursuant to law.

18 (2) The shipment complies with laws and regulations
19 pertaining to the shipment or transportation of hazardous material.

20 (3) The motor carrier holds a valid license for the transportation
21 of hazardous materials.

22 (4) (A) A vehicle or combination of vehicles required to
23 display placards pursuant to Section 27903 is equipped with a
24 two-way communication device, maintained in good working
25 order, that enables the driver to contact the personnel responsible
26 for the safety operations of the motor carrier in the event of an
27 emergency.

28 (B) For the purposes of this section, “two-way communication
29 device” means a radio, cellular telephone, or other similar device
30 that permits communication between the driver and personnel
31 responsible for the safety operations of the motor carrier.

32 (5) (A) The enclosed cargo body, when the display of placards
33 is required pursuant to Section 27903, shall be locked and remain
34 locked during transit of the hazardous materials so as to prevent
35 any unauthorized entry and shall be opened only during loading,
36 unloading, or at the direction of a peace officer, an authorized
37 employee of the department, or a person authorized pursuant to
38 Section 25185 of the Health and Safety Code.

~~(6) Ensure that each vehicle is equipped with a device that enables a peace officer, the motor carrier, or driver to immediately disable the vehicle by one or more of the following methods:~~

~~(A) Cutting off fuel supply to the power unit.~~

~~(B) Depletion of the air from emergency brake lines of the truck, tractor, or trailer, thereby activating parking brakes.~~

~~(C) Cutting off electrical power to the engine.~~

(B) A driver transporting hazardous material in a locked cargo body shall verify that all locks are in place if the vehicle has been left unattended for any length of time. Each driver shall make a notation in his or her logbook of the time and date that the verification occurred.

(C) For the purposes of this section, “cargo body” means a fully enclosed area that is an integral part of the vehicle and designed to encapsulate the entire load, such as a van body or an intermodal freight container, and does not mean a tank or flatbed type of vehicle.

(6) A vehicle described in subdivision (a), (e), or (f) of Section 34500 and used in intrastate commerce to transport an amount of hazardous materials for which the display of placards or markings is required under Section 27903 is equipped with a global positioning system receiver and any hardware necessary to enable the motor carrier to determine the location of that vehicle at any time.

(d) The commissioner may issue exemptions from this section.

(e) Nothing in this section shall limit the ability of other state or local agencies to carry out their regulatory, enforcement, or emergency response duties under other provisions of law.

SEC. 3. Section 32106 of the Vehicle Code is amended to read:

32106. Every vehicle used in the transportation of an inhalation hazard, in addition to any other equipment required by law, shall be equipped and maintained as required by this section.

(a) Brakes and the brake system shall be maintained in good and safe operating condition.

(b) Steering, connection devices, and lighting systems shall be maintained in good operating condition.

(c) All tires shall be in good condition, properly matched and inflated. Except as may be necessary to cause immediate

1 replacement, no vehicle shall be driven unless all tires in actual use
2 on the vehicle are properly inflated.

3 (d) Fire extinguishers and other safety equipment prescribed by
4 regulations adopted by the department pursuant to Section 34501
5 shall be carried in each vehicle or combination of vehicles.

6 ~~(e) The motor carrier operating a vehicle used in the~~
7 ~~transportation of an inhalation hazard shall comply with the~~
8 ~~following:~~

9 ~~(1) Ensure that each vehicle is equipped with a device that~~
10 ~~enables a peace officer, the motor carrier, or driver to immediately~~
11 ~~disable the vehicle by one or more of the following methods:~~

12 ~~(A) Cutting off fuel supply to the power unit.~~

13 ~~(B) Depletion of the air from emergency brake lines of the~~
14 ~~truck, tractor, or trailer, thereby activating parking brakes.~~

15 ~~(C) Cutting off electrical power to the engine.~~

16 ~~(2) Ensure that each vehicle or combination of vehicles~~
17 ~~transporting an inhalation hazard maintains a two-way~~
18 ~~communication device, as defined in subparagraph (B) of~~
19 ~~paragraph (4) of subdivision (e) of Section 32001, that allows the~~
20 ~~driver immediate communication with the motor carrier or motor~~
21 ~~carrier representative.~~

22 *(e) A motor carrier operating a vehicle or combination of*
23 *vehicles described in subdivision (a), (e), or (f) of Section 34500*
24 *in intrastate commerce and transporting an inhalation hazard*
25 *shall comply with all of the following:*

26 *(1) Ensure that the vehicle or at least one vehicle in a*
27 *combination of vehicles is equipped with a remote or external*
28 *device that enables a peace officer, the motor carrier, or the driver*
29 *to immediately disable the vehicle by one or more of the following*
30 *methods:*

31 *(A) Disabling the fuel supply to the power unit.*

32 *(B) Activating the emergency stopping system of the motor*
33 *truck, truck tractor, or trailer, and thereby activating the parking*
34 *brakes.*

35 *(C) Disabling the electrical power to the engine, while still*
36 *allowing steering and braking control of the vehicle.*

37 *(2) Ensure that a vehicle equipped with the device required*
38 *under paragraph (1) is appropriately marked with a letter or*
39 *symbol designated by the department to identify the activation*
40 *method of the device.*

1 SEC. 4. Section 33002 of the Vehicle Code is amended to
2 read:

3 33002. (a) Prior to the transport of any hazardous radioactive
4 materials containing cargoes of commercially produced, spent
5 radioactive fuel outside the confines of a facility where that
6 material was used or stored, or prior to the delivery of these
7 materials to a carrier for transport, each carrier shall provide
8 advance notification, in writing, of the shipment to the Department
9 of the California Highway Patrol, which, in turn, shall notify all
10 of the following persons:

11 (1) The fire chiefs of each city and county fire department and
12 the fire chiefs of each fire protection district serving a population
13 greater than 15,000, which city, county, or fire protection district
14 is located along the proposed route. The Department of the
15 California Highway Patrol, however, shall notify only those fire
16 chiefs who have requested, in writing, to be so notified. A fire chief
17 may revoke this request, in writing, at any time.

18 This paragraph does not apply to any fire chief of a fire
19 department or fire protection district that is composed of 50
20 percent or more volunteer firefighters.

21 (2) The police chiefs of each city where surface transportation
22 would occur along the proposed route.

23 (b) Subdivision (a) applies only to the extent that it does not
24 conflict with federal law.

25 (c) Each advance notification shall contain the following
26 information:

27 (1) The name, address, and telephone number of the shipper,
28 carrier, and receiver of the shipment.

29 (2) If the shipment originates within California, the point of
30 origin of the shipment and the 48-hour period during which
31 departure of the shipment is estimated to occur, the destination of
32 the shipment within California, and the 48-hour period during
33 which the shipment is estimated to arrive.

34 (3) If the shipment originates outside of California, the point of
35 origin of the shipment and the 48-hour period during which the
36 shipment is estimated to arrive at state boundaries, the destination
37 of the shipment within California, and the 48-hour period during
38 which the shipment is estimated to arrive.

39 (4) A telephone number and address for current shipment
40 information.

1 (d) The Department of the California Highway Patrol shall
2 design a standard notification form to include all of the
3 information specified in subdivision (c) and shall make these
4 forms available by April 1, 1984.

5 (e) The notification is required to reach the Department of the
6 California Highway Patrol at least 72 hours before the beginning
7 of the 48-hour period during which departure of the shipment is
8 estimated to occur, and the Department of the California Highway
9 Patrol shall notify the fire chiefs who have requested notification
10 and the police chiefs specified in subdivision (a) at least 36 hours
11 before the beginning of this 48-hour period. A copy of the
12 notification shall be retained by the Department of the California
13 Highway Patrol for three years.

14 (f) The carrier shall also notify, by telephone or telegram, the
15 Department of the California Highway Patrol if there are any
16 changes in the scheduling of a shipment, in the routes to be used
17 for a shipment, or any cancellation of a shipment. The Department
18 of the California Highway Patrol shall, in turn, notify the fire
19 chiefs who have requested notification and the police chiefs
20 specified in subdivision (a) who would be affected by these
21 changes in the scheduling of a shipment, in the routes to be used
22 for a shipment, or the cancellation of a shipment. The Department
23 of the California Highway Patrol shall maintain for three years a
24 record of each telegram and telephonic notification.

25 (g) Any person or agency that receives any information
26 pursuant to this section shall not disseminate or reveal this
27 information to any other person, state agency, city, county, or local
28 agency unless the person or agency determines that disseminating
29 or revealing this information is necessary to protect the public
30 health and safety or the environment.

31 (h) The Governor shall appoint the fire chiefs eligible to
32 request notification, as specified in paragraph (1) of subdivision
33 (a), as the designated representatives of the Governor pursuant to
34 paragraph (1) of subsection (c) of Section 73.21 of Title 10 of the
35 Code of Federal Regulations for the purpose of receiving
36 information classified as safeguards information pursuant to Part
37 73 of Title 10 of the Code of Federal Regulations.

38 (i) Any carrier who violates this section, in addition to any
39 penalty provided by law, is subject to a civil penalty of not more
40 than five hundred dollars (\$500) for each violation. For purposes

1 of this section, each day of a continuing violation is a separate and
2 distinct violation.

3 When establishing the amount of civil liability pursuant to this
4 subdivision, the court shall consider, in addition to other relevant
5 circumstances, the following:

6 (1) The extent of the harm caused by the violation.

7 (2) The persistence of the violation.

8 (3) The number of prior violations by the same violator.

9 (4) The deterrent value of the penalty based on the financial
10 resources of the violator.

11 (j) A motor carrier *operating a vehicle in intrastate commerce*
12 *and* transporting materials described in subdivision (a) shall
13 comply with *all of* the following:

14 ~~(1) Ensure that each vehicle is equipped with a device that~~
15 ~~enables a peace officer, the motor carrier, or driver to immediately~~
16 ~~disable the vehicle by one or more of the following methods:~~

17 ~~(A) Cutting off fuel supply to the power unit.~~

18 ~~(B) Depletion of the air from emergency brake lines of the~~
19 ~~truck, tractor, or trailer, thereby activating parking brakes.~~

20 ~~(C) Cutting off electrical power to the engine.~~

21 ~~(2) Ensure that each vehicle or combination of vehicles~~
22 ~~transporting materials described in subdivision (a) maintains a~~
23 ~~two-way communication device, as defined in subparagraph (B)~~
24 ~~of paragraph (4) of subdivision (c) of Section 32001, that allows~~
25 ~~the driver immediate communication with the motor carrier or~~
26 ~~motor carrier representative.~~

27 *(1) Ensure that the vehicle or at least one vehicle in a*
28 *combination of vehicles is equipped with a remote or external*
29 *device that enables a peace officer, the motor carrier, or the driver*
30 *to immediately disable the vehicle by one or more of the following*
31 *methods:*

32 *(A) Disabling the fuel supply to the power unit.*

33 *(B) Activating the emergency stopping system of the motor*
34 *truck, truck tracker, or trailer, and thereby activating the parking*
35 *brakes.*

36 *(C) Disabling the electrical power to the engine, while still*
37 *allowing steering and braking control of the vehicle.*

38 *(2) Ensure that a vehicle equipped with the device required*
39 *under paragraph (1) is appropriately marked with a letter or*

1 *symbol designated by the department to identify the activation*
2 *method of the device.*

3 SEC. 5. Section 34002.5 is added to the Vehicle Code, to read:

4 34002.5. A motor carrier, operating a vehicle or combination
5 ~~of vehicles on the highway and transporting flammable or~~
6 ~~combustible liquids in bulk packages, as designated by the United~~
7 ~~States Department of Transportation under Title 49 of the Code of~~
8 ~~Federal Regulations, shall comply with the following:~~

9 ~~(a) Ensure that each vehicle is equipped with a device that~~
10 ~~enables a peace officer, the motor carrier, or driver to immediately~~
11 ~~disable the vehicle by one or more of the following methods:~~

12 ~~(1) Cutting off fuel supply to the power unit.~~

13 ~~(2) Depletion of the air from emergency brake lines of the~~
14 ~~truck, tractor, or trailer, thereby activating parking brakes.~~

15 ~~(3) Cutting off electrical power to the engine.~~

16 ~~(b) Ensure that each vehicle or combination of vehicles~~
17 ~~transporting flammable or combustible liquids maintains a~~
18 ~~two-way communication device, as defined in subparagraph (B)~~
19 ~~of paragraph (4) of subdivision (c) of Section 32001, that allows~~
20 ~~the driver immediate communication with the motor carrier or~~
21 ~~motor carrier representative.~~ *of vehicles on the highway in*
22 *intrastate commerce and transporting flammable or combustible*
23 *liquids in a containment system with a capacity greater than 3,500*
24 *gallons shall comply with all of the following:*

25 *(a) Ensure that the vehicle or at least one vehicle in a*
26 *combination of vehicles is equipped with a remote or external*
27 *device that complies with federal Motor Vehicles Safety Standards*
28 *that enables a peace officer, the motor carrier, or the driver to*
29 *immediately disable the vehicle by one or more of the following*
30 *methods:*

31 *(1) Disabling the fuel supply to the power unit.*

32 *(2) Activating the emergency stopping system of the motor*
33 *truck, truck tractor, or trailer, and thereby activating the parking*
34 *brakes.*

35 *(3) Disabling the electrical power to the engine, while still*
36 *allowing steering and braking control of the vehicle.*

37 *(b) Ensure that a vehicle equipped with the device required*
38 *under subdivision (a) is appropriately marked with a letter or*
39 *symbol designated by the department to identify the activation*
40 *method of the device.*

1 SEC. 6. No reimbursement is required by this act pursuant to
2 Section 6 of Article XIII B of the California Constitution because
3 the only costs that may be incurred by a local agency or school
4 district will be incurred because this act creates a new crime or
5 infraction, eliminates a crime or infraction, or changes the penalty
6 for a crime or infraction, within the meaning of Section 17556 of
7 the Government Code, or changes the definition of a crime within
8 the meaning of Section 6 of Article XIII B of the California
9 Constitution.

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